

S. 2155 and Enhanced Regulation for Large Banks

March 29, 2018

Title I of the 2010 [Dodd-Frank Act](#) (12 U.S.C. Ch. 53.) imposed a number of enhanced prudential regulatory requirements for bank holding companies and foreign banks operating in the United States with more than \$10 billion or \$50 billion in assets, depending on the requirements. These requirements were primarily intended to reduce the [systemic risk posed by large financial institutions](#), which was a major feature of the 2007-2009 financial crisis. Section 401 of [S. 2155](#), which the Senate passed on March 14, 2018, would raise the asset threshold at which these requirements are applied to banks. These requirements also apply to nonbank financial firms that have been designated as “systemically important” by the [Financial Stability Oversight Council \(FSOC\)](#), which [S. 2155](#) does not modify. For the policy debate surrounding [S. 2155](#), see CRS Report R45073, *Economic Growth, Regulatory Relief, and Consumer Protection Act (S. 2155) and Selected Policy Issues*, coordinated by David W. Perkins.

Table 1 shows how the current asset thresholds for enhanced regulation would be altered under [S. 2155](#). These provisions can be divided into three broad categories:

1. requirements, implemented through rulemaking, that large institutions must adhere to on an ongoing basis;
2. emergency powers that may only be imposed under certain conditions, such as if there is a finding that an institution poses a threat to financial stability; and
3. assessments on large institutions to finance the administration of certain duties.

[S. 2155](#) would raise the threshold for automatic application of most of the enhanced prudential standards from \$50 billion to \$250 billion in assets. In addition, if a bank under \$250 billion in assets had been designated as a [globally systemically important bank \(G-SIB\)](#) by the Financial Stability Board, the requirements would automatically apply. For requirements found in Section 165 of the Dodd-Frank Act, which includes all of the ongoing requirements, [S. 2155](#) would provide the Federal Reserve (Fed) with discretion to apply these requirements to banks in the \$100 billion to \$250 billion asset range on a case-by-case and bank-by-bank basis if necessary to promote financial stability or the bank’s safety and soundness. This discretionary authority is not provided for other enhanced requirements that are not found in Section 165, which are most of those classified in **Table 1** as emergency powers.

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Table I. Changes to Enhanced Regulation Thresholds for Banks Under S. 2155
(billions of dollars)

Provision	Current Threshold	Proposed Threshold
<i>Ongoing Requirements</i>		
Risk committee (for public companies)	\$10	automatic at \$50, below \$50 at Fed's discretion
Supervisory stress tests	\$50	automatic at \$100
Chief risk officer requirement	\$50	automatic at \$250, \$100-\$250 at Fed's discretion
Company-run stress tests	\$10	automatic at \$250, \$100-\$250 at Fed's discretion
Living wills	\$50	automatic at \$250, \$100-\$250 at Fed's discretion
Liquidity requirements	\$50	automatic at \$250, \$100-\$250 at Fed's discretion
Counterparty credit limits	\$50	automatic at \$250, \$100-\$250 at Fed's discretion
Capital planning	\$50	automatic at \$250, \$100-\$250 at Fed's discretion
Credit exposure report	\$50	automatic at \$250, \$100-\$250 at Fed's discretion
<i>Emergency Powers</i>		
15-I debt to equity limit	\$50	automatic at \$250, \$100-\$250 at Fed's discretion
FSOC reporting requirements	\$50	automatic at \$250
Authority to prevent mergers, acquisitions, and to require divestitures	\$50	automatic at \$250
Approval of acquisitions	\$50	automatic at \$250
Management interlocks	\$50	automatic at \$250
Early remediation requirements	\$50	automatic at \$250
FDIC enhanced examination and enforcement powers	\$50	automatic at \$250
<i>Assessments</i>		
To finance large firm regulation	\$50	automatic at \$100, tailored for \$100-\$250
To finance the Office of Financial Research	\$50	automatic at \$250

Source: CRS.

Note: All provisions also automatically apply to G-SIBs under S. 2155.

These requirements are mostly implemented and overseen by the Fed. Most, but not all, of the first set of requirements have already been implemented, whereas the second set of emergency powers have never been invoked since Dodd-Frank's enactment. For more information on these requirements and a list of banks with more than \$50 billion in assets, see CRS Report R45036, *Bank Systemic Risk Regulation: The \$50 Billion Threshold in the Dodd-Frank Act*, by Marc Labonte and David W. Perkins.

In addition to the threshold changes, [S. 2155](#) also makes changes to some of the requirements in **Table 1**. Other prudential requirements that apply only to the largest banks, but do not derive from the Dodd-Frank Act (such as Basel III requirements), are largely unchanged by [S. 2155](#).

Foreign Banks

Currently, foreign banking organizations that have more than \$50 billion in *global* assets and operate in the United States are also potentially subject to enhanced regulatory requirements. [S. 2155](#) would replace that threshold with \$250 billion in global assets (with Fed discretion to impose individual standards between \$100 billion and \$250 billion). In practice, for foreign banks with more than \$50 billion in global assets, the implementing regulations have imposed significantly lower requirements on those with less than \$50 billion in *U.S.* nonbranch assets compared with those with more than \$50 billion in *U.S.* nonbranch assets. Foreign banks with more than \$50 billion in *U.S.* nonbranch assets must form intermediate holding companies (IHCs) for their *U.S.* operations, which are essentially treated as equivalent to *U.S.* banks for purposes of applicability of the enhanced regime and bank regulation more generally. The manager's amendment to [S. 2155](#) clarified that the increase in the \$50 billion threshold would not invalidate a 2014 rule (which implemented requirements for an IHC, capital planning, stress tests, risk management, and liquidity) for foreign banks with more than \$100 billion in global assets and would not limit the Fed's authority to require the establishment of an IHC or implement enhanced prudential standards for foreign banks with more than \$100 billion in global assets. Thus, it would remain at the discretion of the Fed how to tailor enhanced regulation for foreign banks with a smaller *U.S.* presence, including what IHC threshold to use.

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